

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fendley	Team: Team # 3	CCRB Case #: 201303918	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/15/2012 , Sunday, 09/16/2012 1:00 AM, Wednesday, 09/19/2012	Location of Incident: Marcy Avenue and Macon Street	Precinct: 79	18 Mo. SOL 3/16/2014	EO SOL 3/16/2014	
Date/Time CV Reported Thu, 09/20/2012 1:15 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/20/2012 1:15 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hemadeh Fattah	23748	945709	079 PCT
2. SGT Joseph Cruzado	04330	934706	079 PCT
3. POM Konrad Zakiewicz	13914	945127	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hemadeh Fattah	Abuse: PO Hemadeh Fattah stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Joseph Cruzado	Abuse: Sgt. Joseph Cruzado stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Konrad Zakiewicz	Abuse: PO Konrad Zakiewicz stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.POM Konrad Zakiewicz	Abuse: PO Konrad Zakiewicz frisked § 87(2)(b)	
E.POM Konrad Zakiewicz	Abuse: PO Konrad Zakiewicz searched § 87(2)(b)	
F.SGT Joseph Cruzado	Abuse: Sgt. Joseph Cruzado searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
G.POM Hemadeh Fattah	Abuse: PO Hemadeh Fattah searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.POM Hemadeh Fattah	Abuse: PO Hemadeh Fattah threatened to arrest § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

## Case Summary

§ 87(2)(b) filed this complaint via phone with the CCRB on September 20, 2012 (encl. 2 B-D).

At approximately 1:00 a.m., on September 16, 2012, PO Hemadeh Fattah, Sgt. Joseph Cruzado, and PO Konrad Zakiewicz, all of the 79<sup>th</sup> Precinct, stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. The following allegations resulted:

- [illegible]

## Results of Investigation

### Civilian Statements

#### Complainant/ Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) years old at the time of the incident. He stands at 5'8" tall, weighs 220 pounds, and has brown hair and brown eyes.
- § 87(2)(b)

§ 87(2)(b) provided a brief statement on September 20, 2012, during the intake of his complaint (encl. 2 B-D), and provided another brief statement on September 25, 2012, over the phone (encl. 3 A). § 87(2)(b) appeared at the CCRB to provide a sworn statement on October 12, 2012 (encl. 3 B-J). § 87(2)(g) § 87(2)(b)'s statements are summarized below.

On September 16, 2012, at what § 87(2)(b) estimated was 1:30 a.m., but what the investigation determined to be 1:00 a.m., § 87(2)(b) was driving himself and his friend § 87(2)(b) from § 87(2)(b)'s girlfriend's house. § 87(2)(b) made a complete stop at a stop sign on MacDonough Street and Marcy Avenue in Brooklyn, signaled, turned right and was immediately pulled over. § 87(2)(b) was unsure why he had been pulled over and was not under the influence of any substance. Although § 87(2)(b) said that four officers exited the patrol vehicle and three approached his vehicle, the investigation determined that only PO Fattah, Sgt. Cruzado and PO Zakiewicz, all of the 79<sup>th</sup> Precinct, were present for the incident. Sgt. Cruzado approached the driver's side of the vehicle, where § 87(2)(b) was located, PO Zakiewicz approached the passenger's side of the vehicle, where § 87(2)(b) was located, and PO Fattah remained behind the vehicle.

Sgt. Cruzado immediately opened § 87(2)(b)'s door, told § 87(2)(b) to exit the vehicle and started to reach into the vehicle to pull § 87(2)(b) out. § 87(2)(b) exited the vehicle, said things were getting ridiculous and asked Sgt. Cruzado for his badge number. Sgt. Cruzado provided the badge number 4330, identified himself as a Sergeant, said that he did not care and that it did not matter. Sgt. Cruzado requested § 87(2)(b)'s license and registration and § 87(2)(b) handed over his interim license and passport, both of which were in his pocket. § 87(2)(b) then went back into his vehicle to retrieve his registration, which he also handed to Sgt. Cruzado. § 87(2)(b) thought that PO Zakiewicz must have questioned § 87(2)(b) but was not positive because they were on the other side of the vehicle. The officers did not run either his license or § 87(2)(b) license through their computers. § 87(2)(b) and § 87(2)(b) were brought to the back of § 87(2)(b)'s vehicle and were told to sit on the trunk, facing away from the vehicle, and were told not to turn around towards the vehicle.

§ 87(2)(b) turned around and saw Sgt. Cruzado search the middle console of his vehicle, under the seats and in the hood. There was no discussion about the search of the vehicle. During the search, PO Fattah and PO Zakiewicz remained near the trunk with § 87(2)(b) and § 87(2)(b). § 87(2)(b) asked why he had been stopped and was told that it was because he had run a stop sign. § 87(2)(b) asked why officers continued to stop him. PO Zakiewicz answered that he had never done anything or seen § 87(2)(b) before while PO Fattah answered that the search was procedure. Sgt. Cruzado searched the vehicle for about five to ten minutes, but nothing looked "messed up" after the incident had occurred.

The moving violation was not mentioned again throughout the incident and no verbal warning was given at the conclusion of the incident. The officers said that § 87(2)(b) and § 87(2)(b) were "all good" before they got back into their patrol vehicle and drove away. No arrest or summons resulted.

**Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) years old at the time of the incident. He stands at 5'10" tall, weighs 170 pounds, and has brown hair and black eyes.
- § 87(2)(b)

§ 87(2)(b) appeared at the CCRB to provide a sworn statement on October 12, 2012 (encl. 3 K-O). His statement is summarized below.

On September 16, 2012, at approximately 1:00 a.m., § 87(2)(b) was being driven to a party from a girl's house by § 87(2)(b) when they were pulled over on Marcy Avenue between MacDonough Street and Macon Street in Brooklyn. Music had been playing in the vehicle, but it was not loud. § 87(2)(b) had stopped at a light and then had turned right onto Marcy Avenue and they were immediately pulled over. Three officers, identified through the investigation as PO Fattah, Sgt. Cruzado and PO Zakiewicz, all of the 79<sup>th</sup> Precinct, exited their police vehicle. § 87(2)(b) confirmed that Sgt. Cruzado approached the driver's side of § 87(2)(b)'s vehicle, PO Zakiewicz approached the passenger's side of the vehicle and PO Fattah remained behind the vehicle. Sgt. Cruzado and PO Zakiewicz shined their flashlights at § 87(2)(b) and § 87(2)(b)'s faces, told them not to move and to place their hands on the dashboard. PO Zakiewicz told § 87(2)(b) that they had been stopped because they had not stopped at the light and asked for § 87(2)(b)'s license.

Sgt. Cruzado asked what they were doing and where they were going. Sgt. Cruzado also ordered § 87(2)(b) out of the vehicle and told § 87(2)(b) to remain in the vehicle. § 87(2)(b) heard Sgt. Cruzado ask § 87(2)(b) if he knew he had run a red light. Sgt. Cruzado and PO Zakiewicz shined their flashlights into § 87(2)(b)'s vehicle and PO Zakiewicz told § 87(2)(b) to get out of the vehicle. Neither Sgt. Cruzado nor PO Zakiewicz entered the vehicle. PO Zakiewicz had § 87(2)(b) take off his hat, place his hands on the vehicle and spread his legs. PO Zakiewicz frisked § 87(2)(b) and searched inside his pockets. While PO Zakiewicz asked § 87(2)(b) why they had run the red light then had him go to the back of § 87(2)(b)'s vehicle and sit on the trunk. They were joined by § 87(2)(b) and Sgt. Cruzado.

Sgt. Cruzado and PO Fattah took turns asking § 87(2)(b) and § 87(2)(b) if they knew what they had done and that they had failed to stop at the light. PO Zakiewicz was located next to the trunk on the side of the vehicle, but did not participate in the questioning. § 87(2)(b) saw PO Fattah search the glove compartment, side pockets, under the front seats and in the hood of the vehicle. PO Fattah also told § 87(2)(b) that he was going to be "locked up." The officers did not ask any other questions, said they were going to give § 87(2)(b) and § 87(2)(b) a break and drove away. When he re-entered § 87(2)(b)'s vehicle, § 87(2)(b) noticed that the I-pod and some CDs had been moved.

**NYPD Statements:**

**Subject Officer: PO HEMADAH FATTAH**

- PO Fattah was § 87(2)(b) old at the time of the incident. He is a white man who stands at 5'8" tall, weighs 200 pounds, has brown hair and brown eyes.
- PO Fattah's tour began at 5:30 p.m. on September 15, 2012, and concluded at 2:05 a.m. on September 16, 2012. PO Fattah did not recall his assignment or with whom he was working.

**Memo Book**

PO Fattah had no memo book entries regarding the incident. However, he did have a note on a fly page above the incident date. At 1:00 a.m., two 250s were prepared for § 87(2)(b) DOB:

§ 87(2)(b), § 87(2)(b) and someone who refused to provide their information (encl. 4 B-F).

### **CCRB Statement**

PO Fattah appeared at the CCRB to make a statement on May 28, 2013 (encl. 4 G-J). His statement is summarized below.

PO Fattah had no recollection of the incident date at all. PO Fattah was asked if he performed any car stops on the days in question and he said that his memo book did not mention any so he did not remember. PO Fattah was aware of the Marcy Avenue and Macon Street area. However, he did not recall stopping § 87(2)(b)'s vehicle or searching it. PO Fattah also did not recall threatening to arrest, frisking or searching either § 87(2)(b) or § 87(2)(b).

PO Fattah was shown photographs of both § 87(2)(b) and § 87(2)(b). PO Fattah did not recognize § 87(2)(b) § 87(2)(e), § 87(2)(f).

PO Fattah was asked how he recognized the photograph of § 87(2)(b) and his legal representative, Florence Freedman of the Patrolmen's Benevolent Association, said that PO Fattah "did not recognize the photo, he recognized the defendant. He did not recognize that particular photo, he knows the face." PO Fattah said that he had seen § 87(2)(b) in the neighborhood and that he "did not recognize the particular photo, but knew him § 87(2)(b) face-wise." PO Fattah was asked how he knew § 87(2)(b) face-wise and PO Fattah replied that he has seen § 87(2)(b) around. § 87(2)(e), § 87(2)(f)

However, when asked, PO Fattah did not know how he obtained § 87(2)(b)'s pedigree information.

PO Fattah's fly sheet does not correspond to any specific day. PO Fattah said that he could just be writing notes and flips to any blank page and that his fly page notes do not have to be specific to the day they are written next to. PO Fattah said that the fly sheet is for his personal notes and does not say when, where or what the notes are regarding. His personal notes could contain "a girl's phone number." PO Fattah had no idea for which day his fly page note was written. PO Fattah's fly page did say 1:00 a.m., but it did not say a date and "1:00 o'clock is multiple times throughout the year." PO Fattah's fly page did confirm the interaction, but it did not confirm when or where the interaction took place and that it was 1:00 a.m., which could be multiple times per year. Ms. Freedman requested to go off of the record to speak separately with PO Fattah and the break lasted approximately four minutes. Once back on the record, PO Fattah was again asked if he was able to explain the date of the entry on his fly page again and he said that he could not. The fly page entry did not mean PO Fattah was the one who filled out the paperwork for the stop, question and frisk reports or actually frisked or searched § 87(2)(b) or § 87(2)(b).

PO Fattah was asked if he was aware of him and his unit having previous interactions with § 87(2)(b) since § 87(2)(b) was alleging having multiple interactions with the same officers, but PO Fattah would not answer the question.

**Subject Officer: SGT JOSEPH CRUZADO**

- *Sgt. Cruzado was § 87(2)(b) years old at the time of the incident. He is a white male who stands at 5'8" tall and weighs 200 pounds. He has black hair and brown eyes.*
- *Sgt. Cruzado's tour began at 5:27 p.m., on September 15, 2012, and concluded at 2:05 a.m., on September 16, 2012. He was assigned to Precinct Anticrime Sergeant, was working with PO Fattah, was dressed in plainclothes, and was in an unmarked RMP, #8428.*

**Memo Book**

Sgt. Cruzado had no memo book entries for the incident (encl. 4 L-N).

**CCRB Statement**

Sgt. Cruzado appeared at the CCRB to make a statement on July 25, 2013 (encl. 4 O-P). His statement is summarized below.

During his CCRB interview, Sgt. Cruzado recognized § 87(2)(b) by name and recognized § 87(2)(b) from the photograph he was shown. Sgt. Cruzado recognized § 87(2)(b) and § 87(2)(b) because both individuals are Bloods gang members who sell drugs on MacDonough Street. Sgt. Cruzado stated that he did not stop § 87(2)(b) or § 87(2)(b) on September 16, 2012, and did not interact with either individual at all. Because Sgt. Cruzado knows both individuals, he would definitely know if he dealt with them on that day. Sgt. Cruzado would have made memo book entries and would know if he stopped them. Sgt. Cruzado did not frisk, search, threaten to arrest, or stop either § 87(2)(b) or § 87(2)(b). § 87(2)(b) has made previous complaints about Sgt. Cruzado in the past. Also, § 87(2)(b) sees Sgt. Cruzado on the street at least twice a week and tells him that he will file a CCRB about him and that he will be fired.

**Subject Officer: PO KONRAD ZAKIEWICZ**

- *PO Zakiewicz was § 87(2)(b) old at the time of the incident. He is a white man who stands at 6'3" tall, weighs 265 pounds, has blond hair and brown eyes.*
- *PO Zakiewicz's tour began at 5:30 p.m., on September 15, 2012, and concluded at 2:05 a.m., on September 16, 2012. He was assigned to Anti-Crime, was working with Sgt. Cruzado, was in uniform and was assigned to an unmarked, dark colored Chevy Impala.*

**Memo Book**

PO Zakiewicz has no memo book entries for the incident (encl. 4 R-S).

**CCRB Statement**

PO Zakiewicz appeared at the CCRB to make a statement on August 15, 2013 (encl. 4 T-U). His statement is summarized below.

PO Zakiewicz said that he was working with Sgt. Cruzado, but he could not remember if he was working with PO Fattah that evening or not. However, PO Zakiewicz thought that it could have been possible. There are usually two or three anticrime officers in a vehicle at one time and they often switch vehicles throughout the night. However, there is no reason for there to be four officers in one vehicle. PO Zakiewicz could not recall where in the precinct he was around 1:00 a.m., and said that the Anticrime Unit goes around the entire precinct.

PO Zakiewicz recognized the photograph of § 87(2)(b). However, he recognized § 87(2)(b) because he had previously been shown a photograph of § 87(2)(b) for a separate CCRB interview. PO Zakiewicz did not recognize § 87(2)(b) as someone he interacted with on September 16, 2012. PO Zakiewicz did not recognize § 87(2)(b) from his photograph.

PO Zakiewicz was given a summary of the incident, but he still did not recall it having taken place. If something as significant as a car stop takes place, even if it is someone else's stop who

he is working with, PO Zakiewicz usually writes it down in his memo book. If someone was taken out of the vehicle and frisked, PO Zakiewicz would have a memo book entry. PO Zakiewicz did not stop, search, threaten to arrest or search the vehicle of either § 87(2)(b) or § 87(2)(b).

### **NYPD Documents**

#### **SPRINT**

A SPRINT request was negative for the incident (encl. 9 B).

#### **Roll Call**

The 79<sup>th</sup> Precinct Roll Call confirmed that PO Fattah, Sgt. Cruzado and PO Zakiewicz were working on the incident day. The Roll Call confirmed Sgt. Cruzado's and PO Zakiewicz's assignments as Anti-Crime Unit. However, PO Fattah's assignment is listed as Chart Day (encl. 5 A-J).

#### **Stop, Question and Frisk Index Coversheet**

The Stop, Question and Frisk Index Coversheet was negative for the incident (encl. 5 K-M).

#### **MISD Requests**

Requests for warrant checks and all inquiries for § 87(2)(b) and § 87(2)(b) were negative for the incident date (encl. 5 N-U).

#### **Status of Civil Proceedings**

- The status of civil proceedings with regard to the incident is not available.

#### **Civilians Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[redacted]
  - [redacted]  
[redacted]
  - [redacted]  
[redacted]
  - [redacted]  
[redacted]  
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- [redacted]  
[redacted]
  - [redacted]  
[redacted]  
[redacted]
  - [redacted]  
[redacted]  
[redacted]

#### **Civilians CCRB History**

- [§ 87(2)(b)] has filed the following CCRB complaints (encl. 1H):
  - [§ 87(2)(b)]  
[redacted]

- § 87(2)(b)
- This is the first CCRB complaint § 87(2)(b) has participated in (encl. 1I).

### **Subject Officers CCRB History**

- PO Hemadeh Fattah has been a member of the service for five years and there are five substantiated CCRB allegations against him (encl. 1A-C):
  - In CCRB Case 201010737, an allegation of frisk was substantiated against PO Fattah and he forfeited 15 days of vacation.
  - In CCRB Case 201102767, allegations of physical force, discourtesy and a stop were substantiated against PO Fattah and he forfeited 15 days of vacation.
  - In CCRB Case 201200232, allegations of a stop and a frisk were substantiated against PO Fattah and he received command discipline.
- Sgt. Joseph Cruzado has been a member of the service for nine years and there is one substantiated CCRB allegations against him (encl. 1 D-F):
  - In CCRB Case 200504637, an allegation of refusal to process a civilian complaint was substantiated against Sgt. Cruzado and he received instructions.
- PO Konrad Zakiewicz has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 1 G).

### **Conclusion**

#### **Identification of Subject Officers**

§ 87(2)(b) identified Sgt. Cruzado by his badge number. Further, § 87(2)(b) s and § 87(2)(b) descriptions of Sgt. Cruzado closely match his pedigree information. § 87(2)(b) identified PO Fattah as being from CCRB Case number § 87(2)(b) § 87(2)(b) s and § 87(2)(b) descriptions of PO Fattah closely match his pedigree information. Although the Roll Call identifies PO Fattah's assignment as Chart Day, Sgt. Cruzado confirmed that PO Fattah was his vehicle operator during the time of the incident. Also, PO Fattah had § 87(2)(b) s name, address and date of birth written down on his memo book fly page above the date and time of the incident. PO Zakiewicz confirmed that he worked with Sgt. Cruzado during the tour of the incident. Further, § 87(2)(b) s and § 87(2)(b) descriptions of PO Zakiewicz closely match his pedigree information. § 87(2)(g)

#### **Investigative Findings and Recommendations**

**Allegation A – Abuse of Authority: PO Hemadeh Fattah stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B – Abuse of Authority: Sgt. Joseph Cruzado stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation C – Abuse of Authority: PO Konrad Zakiewicz stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

Both § 87(2)(b) and § 87(2)(b) alleged that PO Fattah, Sgt. Cruzado and PO Zakiewicz stopped § 87(2)(b) s vehicle. At the beginning of the incident, § 87(2)(b) told the officers that things were getting ridiculous and at the end of the incident, he asked the officers why they continued to stop him. § 87(2)(b) said that officers claimed he had run a stop sign and § 87(2)(b) said that officers claimed § 87(2)(b) had failed to stop at a red light. However, the incident did not result in a summons.



PO Fattah, Sgt. Cruzado and PO Zakiewicz all denied stopping § 87(2)(b)'s vehicle. However, Sgt. Cruzado mentioned that he and § 87(2)(b) are aware of each other and that he is often approached by § 87(2)(b) who threatens to get him fired. PO Fattah's memo book fly page above the incident date and time lists the time 1:00 a.m., § 87(2)(b)'s name, address, date of birth, and that the note was regarding two individuals. PO Fattah's note of § 87(2)(b)'s correct personal information and the fact that the incident involved two people confirms that an interaction did take place. However, there is nothing else to document the incident.

§ 87(2)(b)'s and § 87(2)(b)'s statements are generally consistent, including the descriptions of the officers and the fact that a traffic violation was alleged by the officers. However, § 87(2)(b) and § 87(2)(b) were inconsistent about being stopped because of running either a stop sign or a red light, yet were consistent about being accused of making a traffic infraction. § 87(2)(b) was forthcoming about the fact that he disputed the incident by asking why officers kept doing the same thing to him. Conversely, Sgt. Cruzado said that § 87(2)(b) often threatens him, thus creating the potential for § 87(2)(b)'s allegations to be exaggerated. Also, there is nothing remarkable about § 87(2)(b)'s vehicle which could have caused the stop or led the officers to recognize it as § 87(2)(b)'s vehicle. Further, the officers pulled § 87(2)(b) over from behind him. § 87(2)(g)

§ 87(2)(g)

**Allegation D – Abuse of Authority: PO Konrad Zakiewicz frisked § 87(2)(b)**

**Allegation E – Abuse of Authority: PO Konrad Zakiewicz searched § 87(2)(b)**

**Allegation F – Abuse of Authority: Sgt. Joseph Cruzado searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation G – Abuse of Authority: PO Hemadeh Fattah searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation H – Abuse of Authority: PO Hemadeh Fattah threatened to arrest § 87(2)(b)**

§ 87(2)(b) alleged that PO Zakiewicz frisked and searched him and that PO Fattah threatened to arrest him and searched § 87(2)(b)'s vehicle. § 87(2)(b) on the other hand, alleged that Sgt. Cruzado was the officer who searched his vehicle. PO Zakiewicz, PO Fattah and Sgt. Cruzado all denied that any of these things occurred. Further, PO Zakiewicz, PO Fattah and Sgt. Cruzado all deny that the entire incident even took place.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: 3

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date